

REMARKS

Claims 1 to 26 and 28 to 46 are the pending claims, of which Claims 1, 21, 33, 34, 43, 44 and 46 are independent. Claims 33 and 46 are being amended. Reconsideration and further examination are respectfully requested.

Claim 33 is rejected under 35 U.S.C. § 101 as allegedly being directed to non-statutory subject matter. It is alleged that the claim limitations are non-statutory because “they are not tangibly embodied in a manner so as to be executable”. Without conceding the correctness of the rejection, the Applicant amends the system claim to recite one or more processors to execute the software and player engine. Reconsideration and withdrawal of the rejection are respectfully requested.

The claims of the present application are rejected under 35 U.S.C. § 103(a). More particularly, Claims 1 to 4, 17 to 20 and 33 are rejected over U.S. Patent No. 7,117,439 (Barrett) and U.S. Pub. No. 2001/0033296 (Fullerton), Claim 5 is rejected over Barrett, Fullerton and U.S. Pub. No. 2004/0162642 (Gasper), Claims 6 to 16 are rejected over Barrett, Fullerton, and U.S. Patent No. 6,452,609 (Katinsky), Claims 21, 23 to 26, 28 to 32, 34 to 42, 44 and 45 are rejected over Barrett and Katinsky, Claims 22 and 43 are rejected over Barrett, Katinsky and Gasper, Claim 46 is rejected over Fullerton, and Macromedia’s Flash as mentioned in the FlashGoddess.com’s forum (hereinafter “FlashGoddess”), an article by Koman entitled “Build Rich Front Ends To Your Web Application” (hereinafter “Koman”), and an article by Yank entitled “Flash MX vs. Livemotion 2.0” (hereinafter “Yank”) . Reconsideration and withdrawal of the rejection are respectfully requested.

By way of a non-limiting example and in accordance with one or more embodiments disclosed in the present application, a multiphase advertisement can have a first phase, such as display phase 102 of Figure 1 which includes graphical interface 100 displaying a banner advertisement in the example. In a second display phase 120, graphical interface 100 shown in Figure 2 has a different dimension (e.g., larger in this example) than that of the first phase’s graphical interface. By way of a further non-limiting example, with reference to Figure 3, the graphical interface 100 in the second phase of the multiphase advertisement has incorporated a streaming media component in the multiphase advertisement, so that streaming media content can be experienced in streaming media window 150. By way of yet a further non-limiting

example and with reference to Figures 7 to 12 and the pages 15 and 16 of the present application, prior to publishing the graphical interface to a web site for access by web site users, a user can use a development tool to design aspects of graphical interface 100. For example, the user is able to insert a player component (shown as element 720 of Figure 8) in a player space by dragging the player component into the player space, and can specify player controls for use with streaming media retrieved and made available to be experienced using the player component.

Turning to Claim 1, a method is recited comprising generating a first phase of the multiphase advertisement that includes a streaming media component, the first phase including a graphical interface having a first dimension, and generating a second phase of the multiphase advertisement in which the graphical interface has a second dimension that is different from the first dimension of the first phase and includes a streaming media component space. A streaming media component is built using a software player engine in accordance with a design of the multiphase advertisement's graphical interface by which at least a set of core media player variables and a set of core media player controls are predefined, the streaming media component including a link to streaming media content. The streaming media component is incorporated into the streaming media component space of the graphical interface in the second phase of the multiphase advertisement, so that streaming media is integrated into the multiphase advertisement in the second of phase of the multiphase advertisement's graphical interface.

Since, as is discussed in more detail below, the applied art fails to teach, suggest or disclose multiple claim elements, the references, alone or in combination, cannot form the basis of a proper § 103 rejection.

More particularly, the applied art fails to teach, suggest or disclose a multiphase advertisement which includes a first phase and a second phase, in the first phase of the multiphase advertisement a graphical interface has a first dimension and in the second phase the graphical interface has a second dimension that is different than the first dimension of the first phase and a streaming media component space, and the applied art fails to teach suggest or disclose such a multiphase advertisement graphical interface which has a dimension in the first phase different from its dimension in the second phase, the graphical interface incorporates a streaming media component into a streaming media space in the second phase so that the

streaming media component is made available to stream media content in the second phase of the multiphase advertisement's graphical interface.

Barrett describes an interface which consists of an advertisement box, advertisement box 116, which has a constant unvarying physical dimension that is specified by its coordinate information.

In response to the Applicant's previous remarks, the Examiner comments at pages 30 and 31 of the Office Action :

Barrett discloses that the advertisement box 116 that includes the banner advertisements (first phase) and the video advertisement (second phase), includes coordinate information that defines the space within which the advertisements are to be displayed and the confines of the area within which the banner advertisements are displayed. This disclosure provides a teaching of multiple dimensions by differentiating between a confined area (first dimension) in which banner advertisements are displayed in advertisement box, and the coordinate information that defines the space within which the video advertisements are displayed (second dimension).

The space and the area of Barrett's advertisement box 116 are the same. At col. 11, line 62 to col. 12, line 3, Barrett states:

Associated with display screen 110 is advertisement box 116. Advertisement box 116 is configured to display both banner advertisements 118a-118n and video advertisements 120a-120n to the viewer. More specifically, advertisement box 116 has coordinate information that defines the space within which management system 22 may cause video advertisements 120a-120n to be played and the confines of the area within which banner advertisements 118a-118n are displayed.

According to Barrett, the space, which is the same as the area, of the advertisement box 116 is defined by the coordinate information and remains unchanged regardless of whether a

banner advertisement or video advertisement is displayed in the advertisement box 116. Banner's reference to "the space within which" video advertisements are to be played and "the confines of the area" within which banner advertisements are to be displayed are the same, i.e., the space/area of the advertisement box 116 as defined by the coordinate information associated with the advertisement box 116. Barrett uses the same graphical interface with the same physical dimension, regardless of whether Barrett is displaying a banner advertisement or a video advertisement. The advertisement box 116 consumes the same amount of space regardless of whether a banner advertisement or a streaming advertisement is being displayed in the advertisement box 116. The coordinate information sets the size of the advertisement box 116, and the size of the advertisement box 116 does not vary and is indifferent to a banner advertisement or a streaming advertisement being displayed in the advertisement box 116.

In contrast, the invention presently claimed in Claim 1 uses a graphical interface which has a first dimension in a first phase of a multiphase advertisement and a second dimension that is different than the first dimension of the first phase. Barrett does not teach, suggest or disclose the claimed graphical interface which has different dimensions in the first and second phases of a multiphase advertisement, and Barrett further fails to teach, suggest or disclose the claimed second phase of the graphic interface which has a different dimension than the first phase and which includes a streaming media component space to make streaming media content available to be experienced in the second phase of the multiphase advertisement's graphical interface.

Fullerton fails to remedy the deficiencies noted above. Fullerton fails to teach, suggest or disclose a multiphase advertisement, and further fails to teach, suggest or disclose a multiphase advertisement which comprises a first phase and a second phase, the first phase including a graphical interface which has a first dimension in the first phase and a second dimension in the second phase that is different than the first dimension of the first phase, and Fullerton fails to teach suggest or disclose such a multiphase advertisement graphical interface which has a different physical dimension in the first and second phases of the multiphase advertisement and which incorporates a streaming media component into a streaming media space in the second phase so that the streaming media component is made available to stream media content in the second phase of the multiphase advertisement's graphical interface.

Since Barrett and Fullerton fail to teach, suggest or disclose multiple elements of the claim, neither Barrett nor Fullerton can form the basis of a proper § 102 rejection or a § 103 rejection. Furthermore and since Barrett and Fullerton fail to teach, suggest or disclose multiple ones of the same elements, the combination of Barrett and Fullerton cannot form the basis of a proper § 103 rejection.

For at least the foregoing reasons, Claims 1, Claims 2 to 4 and 17 to 20, which depend from Claim 1, are believed to be in condition for allowance. In addition and for at least the same reasons Claims 21, 22 to 26 and 28 to 32 (which depend from Claim 21), 33, 34, 35 to 42 (which depend from Claim 34), Claims 43, 44 and 45 (which depends from Claim 44) are also in condition for allowance.

Furthermore and with regard to the remaining art, i.e., Gasper and Katinsky, applied in various combination against Claims 5 to 16, 21, 23 to 16, 28 to 32, 34 to 42, 44 and 45, this art fails to teach, suggest or disclose a multiphase advertisement which comprises a first phase and a second phase, the first phase including a graphical interface having a first dimension which differs from the second dimension in the second phase of the graphical interface, and further fails to teach suggest or disclose such a multiphase advertisement graphical interface which has a different physical dimension in the first and second phases of the multiphase advertisement, and which incorporates a streaming media component into a streaming media space in the second phase so that the streaming media component is made available to stream media content in the second phase of the multiphase advertisement's graphical interface. Since each one of the references applied against the above-identified claims fails to teach, suggest or disclose at least the same claim elements as are missing from the Barrett and Fullerton references, the applied references either alone or in the various combinations proposed in the Office Action cannot form the basis of a proper § 102 or § 103(a) rejection.

Claim 46 recites a computer-readable medium containing a set of instructions comprising a vector-based graphical development application program enabling a user to specify a streaming media player display interface design for a streaming media presentation, the development application enabling the user to insert a selected set of player controls from a core set of player controls including at least a streaming media player display interface by dragging and dropping the selected set of player controls onto a graphical representation, set one or more of the player

variables of the core set of player variables, to select the streaming media using a stream identifier that identifies streaming media, and to design other graphical features of the streaming media presentation's streaming media player display interface. When the streaming media presentation's graphical interface is launched in accordance with the user-inserted set of player controls including at least a streaming media player display interface and the one or more player variables set by the user, the stream identifier for the streaming media selected by the user in designing the graphical interface is passed to a backend streaming media content management system that locates and retrieves the associated streaming media and passes the streaming media to the streaming media player display interface so that the streaming media can be experienced in accordance with the user-specified design of the streaming media presentation's graphical interface.

It is conceded in the Office Action that Fullerton fails to teach, suggest or disclose the claimed vector-based graphical development application program that enables a user to specify a graphic interface design for a streaming media presentation prior to publication of the graphical interface. The Flash references, i.e., Koman and Yank articles and the FlashGoddess.com forum message also fail to teach, suggest or disclose at least these same claim elements that the Office Action concedes are not taught, suggested or disclosed in Fullerton.

In response to the Applicant's previous remarks, the Examiner states, at page 31 of the Office Action, that:

In response to the Applicant's arguments, it is respectfully submitted that the combinations of the references cited discloses the limitations as recited in Claim 46. As noted on page 31 of the Office Action, the Applicant concedes on page 1 of the specification that Flash is a vector-based graphic animation tool that allows a user to design a multimedia streaming presentation. Flash MX is a platform for building Web Interfaces, as cited on page 7 of the Koman reference.¹ Koman further discloses a set of components (check boxes, push buttons) that the user is able to include in the application interface they are developing with Flash

¹ It is respectfully pointed out that there is no page 7 in the Koman reference. Further clarification is respectfully requested from the Examiner, should the Examiner maintain the grounds for rejection.

MX. The Flash references used in combination with the Fullerton reference produce a vector-based graphical development application program that enables a user to specify a graphic interface design for a streaming media presentation prior to publication of the graphical interface.

Paragraphs 5 and 6, commencing at page 1 of the present application, are reproduced below:

[005] Moreover, it is desirable to provide interactive advertising that permits a user to interact with one or more features of the advertisement, which has an added benefit of focusing the user's attention on the advertisement. One way to make and Internet advertisement interactive is to add vectored graphics and/or streaming media (e.g., streaming audio or video) to the advertisement. By way of background, Macromedia Flash is one type of cross-platform compatible vector-based graphic animation tool. Vector-based images, which are also referred to as object-oriented graphics, use geometrical formulas to represent images. Vector-oriented images are more flexible than other types of images, such as bit maps, because they can be resized and stretched. Presently, although vector-based graphic animation tool, such as Macromedia Flash, provide the capability to embed streaming media elements, these tools have very rudimentary streaming media player capabilities.

[006] Thus, in order to provide streaming media capabilities in a vector-based graphic player, a customized player must be specifically developed and hard-coded for a particular application. Such hard-coded players lack the ability to be reused for subsequent purposes and must be at least partially recoded in the event the streaming content is changed. Moreover, because such players are typically built on a "one-off" basis, the players

lack the ability to integrate with existing streaming media administration and development tools. Thus, there is a need and desire to for a system that provides core streaming media player functions and controls in a vector-based graphic animation environment.

At paragraphs 5 and 6, the present application indicates that Flash is a vector-based animation tool with a vector-based graphic player that must be augmented in order to provide streaming media player capabilities. As is described in the present application, a streaming media player must be hardcoded and customized for the particular streaming media embedded and then changed if the streaming media is changed. Furthermore and while the Koman article, at pages 2 and 3, discusses check boxes and push buttons, Koman clearly indicates that these are examples of forms elements that are self-contained Flash movies, i.e., vector-based graphics. The forms elements mentioned in Koman are vector-based controls and have nothing to do with specifying a streaming media graphical interface.

It is conceded in the Office Action that Fullerton fails to disclose a vector-based graphical development application program. It follows then that Fullerton fails to disclose a vector-based development application program that enables a user to specify a graphical interface design for a streaming media presentation. The Koman article, FlashGoddess forum excerpt and the Yank article describe a script code editor used to edit script code in a Flash movie clip file. The Koman article describes creating a Flash movie file and editing script code in the movie file using a script editor. The FlashGoddess forum excerpt describes editing a Flash movie to add ActionScript play button code to the Flash movie clip file. The Yank article describes a tool used to create a Flash file, which includes an editor to edit the script code contained in the Flash file. The Flash references are limited in their description to tools to create a Flash file and edit script code contained in a Flash file.

In stark contrast to the Flash content creation and script editing tools described in the Flash references, the invention presently claimed in Claim 46 includes a vector-based graphical development tool that enables a user to design a graphic interface which can be used to allow a user to experience streaming media, the vector-based graphical development tool enables the user to insert a set of player controls that the user selects from a core set of player controls by

dragging and dropping the selected set of player controls onto a graphical representation, to set one or more player variables of a core set of player variables, to select streaming media and to design other graphic features for inclusion in a streaming media presentation using the vector-based graphical development tool. By way of a non-limiting example, the vector-based graphic development tool could be used to design a graphic interface by which Flash content created/edited as described in the Flash references can be experienced upon the launch of the graphical interface. By way of a further non-limiting example, in contrast to the FlashGoddess approach which requires that each Flash file include script code to add play buttons to an individual Flash file, the vector-based development tool recited in Claim 46 enables a user to design a graphical interface that includes a set of player controls and a media player display interface is launched, such that streaming media content can be retrieved and experienced in accordance with the user-specified graphical interface and player controls included in the graphical interface. Thus, embodiments of the invention presently recited in Claim 46 can be used to avoid editing each Flash file in order to customize the individual Flash file with play buttons.

Since Fullerton and the Flash references, i.e., Koman, Yank and FlashGoddess, each fail to teach, suggest or disclose the claimed vector-based graphical development application program that enables a user to specify a graphic interface design for a streaming media presentation, none of the references by itself can form the basis of a proper § 102 rejection, and the combination of Fullerton and the Flash references cannot form the basis of a proper § 103 rejection. Claim 46 is therefore believed to be in condition for allowance.

Should matters remain which the Examiner believes could be resolved in a telephone interview, the Examiner is requested to telephone the Applicant's undersigned attorney. Alternatively, since it is believed that the claims of the present application are in condition for allowance, the Examiner is respectfully requested to issue a Notice of Allowance at the Examiner's earliest convenience.

The Applicant's attorney may be reached by telephone at 212-801-6729. All correspondence should continue to be directed to the address given below, which is the address associated with Customer Number 76058.

The Commissioner is hereby authorized to charge any required fee in connection with the submission of this paper, any additional fees which may be required, now or in the future, or credit any overpayment to Account No. 50-1561. Please ensure that the Attorney Docket Number is referenced when charging any payments or credits for this case.

Respectfully submitted,

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